



W.P.No.26118 of 2015

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.26118 of 2015

Tmt.Felicita Bose

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Public (Special-A) Department,
Secretariat, Fort St.George,
Chennai - 600 009.

2.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Personnel & Administrative Reforms Department,
Secretariat, Fort St.George,
Chennai - 600 009.

3.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Municipal Administration & Water Supply Department,
Secretariat, Fort St.George,
Chennai - 600 009.

... Respondents



W.P.No.26118 of 2015

WEB COPY

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to proceedings issued by the 1st Respondent in Lr.No. 388/2013/A-1/Public (Special A) Department dated 18/03/2014 and to quash the same and consequently directing the respondents to grant the benefits of pay and post parity to the Petitioner on par with junior Thiru.Joseph Stephen in the post of Deputy Secretary, Joint Secretary and Additional Secretary to Government retrospectively with consequential fixation of pay and revision of retirement benefits and pensionary benefits within a time frame to be fixed by this Honourable Court.

For Petitioner : Mr.J.Jayamalan
for Mr.S.Nedunchezhiyan
For Respondents : Mr.V.Veluchamy
Additional Government Pleader

ORDER

This writ petition has been filed seeking writ of Certiorarified Mandamus to call for the records relating to proceedings issued by the first Respondent in Letter No. 388/2013/A-1/Public (Special A) Department dated 18/03/2014 and to quash the same and consequently directing the respondents to grant the benefits of pay and post parity to



W.P.No.26118 of 2015

WEB COPY

the Petitioner on par with junior Thiru.Joseph Stephen in the post of Deputy Secretary, Joint Secretary and Additional Secretary to Government retrospectively with consequential fixation of pay and revision of retirement benefits and pensionary benefits within a time frame to be fixed by this Court.

2. The petitioner was appointed as Lower Division Clerk (LDC) in Secretariat Service through Tamil Nadu Public Service Commission on 17.06.1967 and was allotted to Rural Development and Local Administrative Department and thereafter, she was promoted to the post of Upper Division Clerk (UDC), which was subsequently re-designated as Assistant Section Officer in the year 1970 and thereafter, the petitioner was also further promoted to the post of Section Officer in the said Department. While so, the petitioner was sent on deputation as Municipal Commissioner on 04.02.1990 for two years. While continuing as Municipal Commissioner the petitioner was extended with the benefit of promotion to the post of Under Secretary to Government (Desk Officer) by way of paper promotion during the year 1993. Though the



W.P.No.26118 of 2015

WEB COPY

initial period of deputation is only for a period of two years, the petitioner continued in foreign service thereafter till the year 1999 and it was pursuant to an order issued in G.O.Ms.No.479 MAWS Department dated 08.10.1999, the petitioner was repatriated to the parent department namely Tamil Nadu Secretariat Service. However, on the request of the petitioner, the revised order was issued in G.O.Ms.No.647 MAWS Department dated 21.11.2000 permitting the petitioner to continue as Assistant Commissioner till the end of May, 2001. Accordingly, the petitioner came back to her parent department on 01.06.2001. In the orders issued in G.O.Ms.No.647 dated 21.11.2000 repatriating the petitioner to her parent department, it was indicated that the petitioner can be placed at the appropriate place in the seniority list of Under Secretary. It was also stated that the seniority of the petitioner would be maintained in the parent department only in case of the petitioner acquiring eligibility criteria for the post of Deputy Secretary, Joint Secretary on par with her juniors in accordance with existing rules and it is only in case of acquiring such eligibility criteria, her case for promotion would be considered. The relevant paragraph from G.O.Ms.No.647 which reads



W.P.No.26118 of 2015

WEB COPY thus :

“2. தனியாளர் தாய்த்துறையில் அவருக்கு பணிமூப்பில் இளைவருக்கு ஈடாக துணைச் செயலர் / இணைச் செயலர் பதவி உயர்வு நடப்பில் உள்ள விதிகளுக்கு உட்பட்டு தேவையான தகுதிகளை பெற்றால் மட்டுமே அளிக்க இயலும், தன்னிச்சையாக வழங்கப்பட மாட்டாது.”

In terms of the above said G.O.Ms.No.647 dated 21.11.2000 the petitioner came back to her parent department and completed the requisite two years service in the post of Under Secretary by 31.05.2003 and thereafter, retired from service on attaining the age of superannuation on 31.08.2003. Thereafter, the petitioner made a claim for promotion to the post of Deputy Secretary, Joint Secretary and Additional Secretary on par with her juniors contending that the petitioner has fulfilled the eligibility criteria for promotion to the post of Deputy Secretary, Joint Secretary etc. The said claim of the petitioner was rejected by the respondent by passing the impugned order dated 18.03.2014 stating that the petitioner has become qualified for promotion to the post of Deputy Secretary only on 01.06.2003 i.e. on completion after two years service qualification in the



W.P.No.26118 of 2015

WEB COPY

post of Under Secretary to Government and the petitioner retired from service on 31.08.2003 i.e. before the preparation of a panel for the year 2003 - 2004 and no officer was promoted to the post of Deputy Secretary to Government during the period 01.06.2003 to 31.08.2003. It is aggrieved by the said order dated 18.03.2014, the petitioner approached this Court by filing the present writ petition.

3. In the light of the above fact situation, the only question that arise for consideration before this Court is whether the petitioner is entitled to claim for benefit of promotion to the post of Deputy Secretary, Joint Secretary and Additional Secretary on par with her junior or not ?

4. It is not in dispute that the immediate junior to the petitioner in the category of Under Secretary is Mr. Joseph Stephen and the said Joseph Stephen had admittedly acted as Additional Secretary to Government and then retired from service. It is also not in dispute that the petitioner has acquired and satisfied the eligibility criteria for the post of Deputy Secretary as on 01.06.2003.



W.P.No.26118 of 2015

WEB COPY

5. The petitioner was sent on deputation as Municipal Commissioner not on her own volition but by virtue of orders issued by the Government from time to time and she was continued in foreign service till the repatriation orders issued in G.O.Ms.No.479 dated 08.10.1999 as modified through G.O.Ms.No.647 dated 21.11.2000. The petitioner came back to her parent department on 01.06.2001. By the time the petitioner satisfied the eligibility criteria for promotion to the post of Deputy Secretary on 01.06.2003, her immediate junior namely Joseph Stephen was promoted to the post of Additional Secretary. By virtue of the condition imposed by the Government in Para 4(2) of G.O.Ms.No.647 dated 21.11.2000 it is only in case of the petitioner satisfying the eligibility criteria to the post of Deputy Secretary/Joint Secretary and Additional Secretary etc., she will be placed at appropriate place above her junior. As already noted above, admittedly, the petitioner has acquired the eligibility criteria for promotion to the post of Deputy Secretary as on 01.06.2003. Therefore, as a matter of consequence and being a permanent member of Tamil Nadu General Service she is entitled



W.P.No.26118 of 2015

WEB COPY to be placed at the appropriate place in terms of her seniority. Therefore, the claim of the petitioner for promotion to the post of Deputy Secretary on par with her immediate junior namely Joseph Stephen cannot be denied.

6. As seen from the special rules for Tamil Nadu General Service there are no additional qualifications prescribed for further promotion to the post of Joint Secretary and Additional Secretary. In view of the same once the petitioner's claim for promotion to the post of Deputy Secretary is accepted on par with her immediate junior, her claim for further promotion to the post of Joint Secretary and Additional Secretary also cannot be denied as there were no additional qualification prescribed, provided the junior of the petitioner was promoted to such posts before 31.08.2003. This is on the principle that, had the petitioner continued in the parent department without there being any deputation the petitioner would have acquired all such promotions ahead of her immediate junior namely Joseph Stephen who reached the position of Additional Secretary indisputably. However, the reasoning assigned in



W.P.No.26118 of 2015

WEB COPY

the impugned order stating that there was no panel prepared after the petitioner acquired the eligibility criteria and none of her juniors were promoted during the period of 01.06.2003 to 31.08.2003 is totally an irrelevant factor, while considering the claim of the petitioner for promotion on par with her immediate junior who is working in parent department. It is settled law that the persons deputed and sent on foreign service are entitled to continue their lien in the parent department and also for promotions as per their seniority in the parent department, unless otherwise it is denied by passing appropriate orders. In the instant case, there are no orders that would prevent the petitioner for getting promotion in her parent department, though she was working in foreign service, subject to satisfying the eligibility criteria.

7. As already noted above, the petitioner has admittedly acquired the eligibility criteria by 01.06.2003 and once the petitioner acquired the eligibility criteria, her right to claim for promotion on par with her immediate junior, cannot be denied. In the circumstances, the impugned order dated 18.03.2024 is quashed and the respondents are



W.P.No.26118 of 2015

WEB COPY

directed to extend the benefit of promotion to the post of Deputy Secretary, Joint Secretary and Additional Secretary on par with her immediate junior namely Joseph Stephen and extend all other consequential benefits. However, it is made clear that the petitioner shall be entitled for monetary benefits only with effect from 01.06.2003 i.e. the date on which the petitioner acquired the eligibility criteria.

8. Accordingly, this Writ Petition is allowed. No costs.

01.07.2025

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl

To

Page 10 of 12



W.P.No.26118 of 2015

WEB COPY

- 1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Public (Special-A) Department,
Secretariat, Fort St.George,
Chennai - 600 009.
- 2.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Personnel & Administrative Reforms Department,
Secretariat, Fort St.George,
Chennai - 600 009.
- 3.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Municipal Administration & Water Supply Department,
Secretariat, Fort St.George,
Chennai - 600 009.

MUMMINENI SUDHEER KUMAR, J.



WEB COPY



W.P.No.26118 of 2015

mtl

W.P.No.26118 of 2015

01.07.2025